

Message Text

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SUBJECT: PRESSURES ON ALLEGATIONS OF POLICE MISTREATMENT

REF: DUBLIN 1863

1. SUMMARY. DISSATISFACTION WITH THE GOVERNMENT'S HANDLING OF AMNESTY INTERNATIONAL'S INQUIRY INTO ALLEGATIONS OF POLICE MISTREATMENT OF TERRORISTS SUSPECTS IN NORTHERN IRELAND (REFTEL) WAS GIVEN MORE WEIGHT WITH AN EXPRESSION OF CONCERN BY THE POLICE AUTHORITY, AND A THREATENED BOYCOTT BY SOLICITORS OF THE PRIVATE INQUIRY DECIDED BY THE GOVERNMENT. END SUMMARY.

2. POLICE AUTHORITY CONCERN: THE POLICE AUTHORITY OF NORTHERN IRELAND JULY 4 EXPRESSED ITS "CONCERN" OVER THE HANDLING OF THE AMNESTY REPORT. THE LACOGNIC STATEMENT SAID IT STANCE HAD BEEN MADE CLEAR TO SECRETARY OF STATE FOR NI ROY MASON, AND THAT IT WANTED TO GIVE EVIDENCE TO THE INQUIRY.

3. THE AUTHORITY ALSO REGRETTED THE WITHDRAWAL OF TWO MEMBERS FROM ITS MEETINGS. THEY HAD DONE SO TO PROTECT THE POLICE (RUC) CHIEF CONSTABLE'S FAILURE TO CONSULT THE UNCLASSIFIED

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AUTHORITY BEFORE HE RECOMMENDED A PRIVATE INQUIRY TO MASON -- RATHER THAN AMNESTY'S SUGGESTED PUBLIC INQUIRY. THE SENIOR MEMBER OF THE TWO, A HIGHLY RESPECTED LAWYER, SAID THE SECRETARY OF STATE AND CHIEF CONSTABLE HAD BEEN TREATING THE AUTHORITY IMPROPERLY IN REFUSING TO SUPPLY NECESSARY INFORMATION AND BY DEALING WITH A RESTRICTED GROUP OF MEMBERS. SPECIFICALLY, THE AUTHORITY HAD BEEN DENIED ACCESS TO FILES OF COMPLAINTS

AGAINST THE POLICE. HAD THEY BEEN AVAILABLE, THE MEMBER SAID, THE AMNESTY ALLGATIONS COULD HAVE BEEN REBUTTED OR CONFIRMED, AND MISTREATMENT PROBABLY "COULD NOT HAVE TAKEN PLACE EXCEPT IN ISOLATED CIRCUMSTANCES."

4. SOLICITORS' BOYCOTT: THE NEXT DAY A GROUP OF SOLICITORS WHO DEFEND TERRORIST SUSPECTS AND HAD OPENED THEIR FILES TO AMNESTY STATED THEIR ACCEPTANCE OF AMNESTY'S FINDINGS, THEIR REJECTION OF MASON'S PRIVATE INQUIRY, ADVISE TO THEIR CLIENTS NOT TO SUBMIT EVIDENCE TO IT, AND RECOMMENDATION THAT ALL BOYCOTT IT. THEY RECOMMENDED IN ADDITION:

(1) A REVIEW OF ALL CONVICTIONS BASED SOLELY ON CONFESSIONS WHEN THE DEFENSE ASSERTED THEY HAD BEEN OBTAINED BY UNLAWFUL MEANS, AND

(2) THAT CONFESSIONS NOT BE ACCEPTED AS PROOF OF GUILT IN THE ABSENCE OF INDEPENDENT CORROBORATIVE EVIDENCE.

5. COMMENT: THE POLICE AUTHORITY'S EXPRESSION OF CONCERN AND THE WITHDRAWAL OF THE SENIOR MEMBER PRESUMABLY WERE NOT UNDERTAKEN LIGHTLY. THE AUTHORITY IS AN APPOINTED, WIDELY REPRESENTATIVE BODY WHOSE FUNCTIONS ARE MOSTLY ADMINISTRATIVE. IN ESSENCE, THE CHIEF CONSTABLE IS RESPONSIBLE ONLY TO HIS CONSCIENCE IN POLICY AND OPERATIONAL MATTERS. BUT THE AUTHORITY IS CHARGED WITH INFORMING ITSELF HOW PUBLIC COMPLAINTS AGAINST THE POLICE ARE DEALT WITH, AND CAN REQUIRE SUBMISSION OF A COMPLAINT TO A SPECIAL TRIBUNAL (IT HAS NEVER DONE SO).
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APPARENTLY SOME MEMBERS ARE FRUSTRATED AT THEIR INABILITY TO GET A HANDLE ON THE COMPLAINTS PROBLEM.

6. THIS IS A DELICATE POINT. JUDGES HAVE THROWN OUT CASES BASED ON WHAT THEY CONSIDER TAINTED CONFESSIONS. BUT TO OBTAIN LEGAL REDRESS A PERSON ALLEGING MISTREATMENT MUST GO THROUGH NORMAL PROCEDURES: INVESTIGATION OF POLICE ACTIONS BY POLICE, AND REFERRAL TO THE DIRECTOR OF PUBLIC PROSECUTION FOR THE DECISION ON WHETHER THE EVIDENCE WARRANTS PROSECUTION.

7. FEW CASES AGAINST THE POLICE ARE PROVED -- WHETHER BECAUSE EVIDENCE IS LACKING, OR THERE IS NO CASE. THE SOLICITORS IN RECOMMENDING BOYCOTT ARE HITTING THIS POINT, SINCE THE PRIVATE INQUIRY WILL NOT LOOK INTO THE SPECIFIC CASES INVESTIGATED AND PUBLICIZED BY AMNESTY. (CYNICS WILL SAY THE BOYCOTT WILL PREVENT THE CLIENTS' CLAIMS FROM BEING SUBJECTED TO CLOSE SCRUTINY, AND WILL ALLOW CRITICS TO CLAIM THE PRIVATE INQUIRY IS A FAILURE). SOME DEFENSE LAWYERS IN THE PAST YEAR HAVE TALKING ABOUT BOYCOTTING COURTS TO PROTEST ALLEGATIONS OF POLICE MISTREATMENT. THEY HAVE TOLD THE MEDIA THEY DECIDED AGAINST IT BECAUSE IT WOULD LEAVE THEIR CLIENTS UNDEFENDED, AND THEMSELVES POSSIBLY OPEN TO CONTEMPT FINDINGS.

8. ADOPTION OF THE LAWYERS' GENERAL RECOMMENDATIONS (LAST SENTENCE, PARA FOUR) UNDER PRESENT CIRCUMSTANCES WOULD RESULT IN A SHARP REVERSAL OF THE PRESENT HIGH RATE OF TERRORIST CONVICTIONS.STOUT

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